

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 95-155
Toll Free Service Access Codes)	

**American National Red Cross Opposition to
Petition for Reconsideration**

The American National Red Cross (“American Red Cross” or “Red Cross”) hereby respectfully submits its Opposition to 800Ideas.com’s Petition for Reconsideration¹ in the above-captioned docket. On September 2, 2005, the American Red Cross filed a letter with the Federal Communications Commission (“Commission” or “agency”) requesting that the number 1-800-733-2767 (1-800-RED CROSS) be reassigned to the Red Cross to assist in the recovery efforts for Hurricane Katrina and other relief initiatives. The Commission granted the Red Cross’s request and assigned this number to the Red Cross for one year.² As explained in more detail below, the Red Cross has already begun utilizing this number and continues to expand its use in the Red Cross’s relief and fund raising efforts. The Commission unquestionably has authority to assign toll-free numbers in the public interest, and its reassignment of this number meets this goal by assisting the Red Cross in its critical disaster recovery mission. Although the Red Cross stands by its characterization of the parties’ conversations and has dealt fairly with

¹ 800Ideas.com, Inc. Petition for Reconsideration, CC Docket No. 95-155 (filed Oct. 30, 2005) (“Petition”). Because no service list was included in the Petition and the Red Cross has no record of being served with the Petition, on October 11, 2005, the Red Cross submitted to the Commission a request for an extension of time so that this Opposition would be due on October 14, 2005. American National Red Cross Request for Extension of Time, CC Docket No. 95-155 (filed Oct. 11, 2005).

² *Toll Free Service Access Codes*, Order, CC Docket No. 95-155 (rel. Sept. 2, 2005) (“Order”).

800Ideas.com, the Commission may wish to use its investigatory powers to ensure it has a complete record. Therefore, the Red Cross urges the Commission to deny this Petition.

I. THE COMMISSION HAS THE AUTHORITY TO REASSIGN TOLL-FREE NUMBERS TO BENEFIT THE PUBLIC INTEREST.

As the Communications Act makes clear, “[t]he Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States,”³ and it shall exercise its authority to “ensure the efficient, fair, and orderly allocation of toll-free numbers.”⁴ In determining how these numbers should be allocated, the Commission found that toll-free numbers are a “public resource”⁵ and that no entity has an ownership interest in a toll-free number.⁶

The Commission also has broad authority to protect and enhance public safety. In its recent order applying E911 to certain Voice over Internet Protocol services, the Commission stated that “[t]he Act charges the Commission with responsibility for making available ‘a rapid, efficient, Nation-wide, and world-wide wire and radio communication service . . . for the purpose of promoting safety of life and property through the use of wire and radio communication.’”⁷ The importance of the Commission’s public safety role is underscored by its recent decision to create a new Public Safety/Homeland Security Bureau with “responsibility for

³ 47 U.S.C. § 251(e)(1).

⁴ *Id.*

⁵ *Toll Free Service Access Codes*, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 11162, ¶ 32 (1997).

⁶ *Toll Free Service Access Codes*, Fourth Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 9058, ¶ 12 (1998).

⁷ *IP-Enabled Services*, WC Docket No. 04-36, *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, First Report and Order and Notice of Proposed Rulemaking, FCC 05-116, ¶ 29 (rel. June 3, 2005).

coordinating public safety, national security, and disaster management activities within the FCC.”⁸

To ensure that toll-free numbers are made available on an equitable basis, the Commission adopted rules governing number usage and generally makes numbers available on a first-come, first-served basis. However, 47 C.F.R. § 52.111 expressly recognizes that this mechanism may not always result in the most equitable allocation and that some other assignment may serve the public interest. Specifically, the Commission concluded that “[t]oll free numbers shall be made available on a first-come, first-served basis *unless otherwise directed by the Commission.*”⁹ Here, the agency utilized the power it had purposely reserved to award a number in the manner that would best serve the public interest. Indeed, 800Ideas.com does not even question that the Commission has the authority to take the action that it did. As explained below, the Commission’s decision is consistent with the American Red Cross’s unique role and will benefit all Americans.

II. 1-800-RED CROSS WILL FURTHER THE AMERICAN RED CROSS’S MISSION TO PROVIDE EMERGENCY ASSISTANCE TO VICTIMS OF DISASTERS AND TO U.S. MILITARY PERSONNEL AND THEIR FAMILIES.

The American Red Cross plays a significant role in helping our nation respond to national disasters. The Red Cross is a congressionally chartered organization that provides emergency assistance, in the form of food, water, medical aid, and shelter, to victims of such events as terrorist attacks, hurricanes, floods, and earthquakes, and to U.S. military personnel and their families. It also provides blood donor services nationwide. The Red Cross closely coordinates its activities with the Federal Emergency Management Agency (“FEMA”), the U.S. military, and

⁸ FCC News Release, “FCC Takes Steps to Assist in Hurricane Katrina Disaster Relief” (rel. Sept. 15, 2005).

⁹ 47 C.F.R. § 52.111 (emphasis added).

other U.S. government agencies and has been designated as the primary agency in the National Response Plan, created by the Department of Homeland Security and adopted by the President, for responding to national disasters by providing mass care in the form of emergency shelter, food, and water.

The Red Cross's central role in America's disaster preparedness plans was highlighted earlier this year. In recognition of American Red Cross Month (March 2005), FEMA stated that:

The American Red Cross has played important roles in every major disaster of the last century - and is one of three non-federal signatories of the Department of Homeland Security's new National Response Plan. According to FEMA Regional Director John Pennington, the American Red Cross provides help, hope and healing when crises strike, and is the lead agency coordinating Mass Care (shelter, food, and emergency first aid) in the event of catastrophic disaster.¹⁰

Hurricane Katrina followed by Hurricane Rita quickly on its tail resulted in one of the worst natural disasters in the country's history. The American Red Cross is at the forefront of providing emergency basic services for hurricane victims. The momentous nature of this crisis has required the largest mobilization in the Red Cross's history. The Red Cross has been sheltering over 500,000 families for nearly three million overnight stays in over one thousand shelters throughout the United States. More than 188,000 Red Cross disaster relief workers have responded to their neighbors in need. Working with faith groups, cities, and other organizations, the Red Cross has served 24 million hot meals and 15 million snacks to 593,000 people and provided 470,000 people with mental health assistance. The Red Cross has given hundreds of millions of dollars in emergency family assistance to approximately 1.2 million families or roughly 3.7 million hurricane survivors. The extent of the extraordinary relief required to

¹⁰ FEMA News Release, "American Red Cross Month 2005" (rel. Mar. 7, 2005), http://www.fema.gov/news/newsrelease_print.fema?id=16821 (last visited Oct. 14, 2005).

address this national disaster has highlighted the Red Cross's need for an easily remembered and recognized toll-free number to coordinate both fundraising and the delivery of assistance services. The Red Cross is critically dependent on its own fund raising efforts to support its relief efforts. The Red Cross currently uses 1-800-HELP-NOW to raise money for disaster relief. It believes that its disaster relief coordination and fund raising efforts are hindered because this number does not convey the organization's name, which is well-known throughout the country. The large number of unscrupulous persons and entities that have attempted to take advantage of American's outpouring of generosity in this time of crisis further illustrates the critical need for an easily identifiable phone number.¹¹

The Red Cross is grateful for the Commission's prompt action to address this problem by assigning 1-800-RED CROSS to the Red Cross. The Red Cross is currently using 1-800-RED CROSS for the public to access call centers providing financial assistance to victims of Hurricane Rita. The Red Cross hopes to eventually use this number as the central contact for the national organization's needs, including targeted disaster relief coordination and information, fund-raising, blood donation, and volunteering. To accommodate this centralized call routing using one number, intensive planning efforts are needed and equipment and other resources must be obtained. This could not be accomplished overnight, particularly in the midst of responding to the Hurricane Katrina disaster. Eventually, the Red Cross will be using this number to streamline contacting both the national and local Red Cross chapters.

800Ideas.com criticizes the Red Cross for not utilizing this number more quickly. Although the Red Cross would have liked to put this number into service instantly, all of the Red

¹¹ Les Christie & Jessica Seid, "Katrina scams mushroom" (Sept. 9, 2005), http://money.cnn.com/2005/09/09/pf/beware_disaster_scams/?cnn=yes (last visited Oct. 14, 2005).

Cross's resources necessary to accomplish this task were and are focused on providing aid to the victims of Hurricanes Katrina and Rita. The Red Cross had to ensure that its emergency relief efforts were taken care of while at the same time determining the most effective way to implement these changes without causing confusion by victims and donors on how to contact the Red Cross. The Red Cross does not take these issues lightly. As the crush of addressing these urgent needs abates, the Red Cross intends to make even broader use of this number.

III. THE AMERICAN RED CROSS HAS DEALT FAIRLY WITH 800IDEAS.COM AND HAS EXERCISED GOOD STEWARDSHIP OVER ITS CONTRIBUTIONS.

The Red Cross has dealt fairly with 800Ideas.com in attempting to gain access to 1-800-RED CROSS. Given the inflammatory nature of 800Ideas.com's statements, the Red Cross is compelled to address a number of inaccurate assertions in the Petition.

On May 31, 2005, Chuck Connors, Vice President of Public Relations for the American Red Cross, had a meeting with certain principles of 800Ideas.com, David Sprouse and Rich Jones.¹² Scheherazade Sherry Bahrambeygui, 800Ideas.com's attorney, was present at the meeting. 800Ideas.com participants were informed that other Red Cross representatives were joining the conference call, and the lawyers representing the American Red Cross that were on the telephone were specifically identified.

During this call, the Mr. Connor requested that 800Ideas.com transfer the number 1-800 RED CROSS to the Red Cross. The Red Cross recognized that there could be some expenses that 800Ideas.com had incurred through use of this number and offered to reimburse a reasonable amount of money to offset these expenses. In addition, the Red Cross offered to provide recognition to 800Ideas.com for its efforts through the American Red Cross's existing corporate sponsorship program.

¹² Declaration of Charles Connors, Appendix 1 ("Connors Declaration").

800Ideas.com did not reject the request outright, but rather responded that reimbursing expenses would not be sufficient compensation to convince it to transfer the number because there were a number of lost opportunity costs, i.e., future revenues, that 800Ideas.com would lose if the number were transferred.¹³ 800Ideas.com asked that the American Red Cross come back with an offer for payment.¹⁴ The call was then terminated.¹⁵ At the conclusion of the discussions, Mr. Connor indicated that the Red Cross was willing to consider a cost reimbursement “in the six-figure range.”¹⁶ Ms. Bahrambeygui stated that this was well below what 800Ideas.com would even consider, and 800Ideas.com had previously noted to the Red Cross that 1-800-FLOWERS had changed hands for \$6 million.¹⁷

The Red Cross did not pursue this issue directly with 800Ideas.com further because, although the Red Cross believes that the use of 1-800 RED CROSS would substantially benefit the public interest, it could not justify using funds intended for disaster relief to pay 800Ideas.com to transfer the number to it or pay 800Ideas.com’s high rates. The Red Cross must always be mindful of its obligation to act as a good steward to the donations people entrust to it.

¹³ 800Ideas.com did offer to provide routing services to the American Red Cross with the number retained by 800Ideas.com. However, the rate that the American Red Cross’s San Diego chapter has been paying for such service is much higher than standard telecommunications rates for toll-free services from most telecommunications service companies. *See* Connors Declaration

¹⁴ *Id.* Contrary to the allegation contained in 800Ideas.com’s Petition, the Letter from Mary Elcano to the FCC never indicated that 800Ideas.com explicitly offered to sell the number to the American Red Cross. Rather, she indicated that the offer was “implied” through veiled, but clear, implication on the call.

¹⁵ Connors Declaration.

¹⁶ *Id.*

¹⁷ *Id.*

IV. THE COMMISSION SHOULD SEEK ADDITIONAL INFORMATION REGARDING 800IDEAS.COM'S CLAIMS.

800Ideas.com makes a number of claims regarding its use of 1-800-RED CROSS, its compliance with the Commission's rules, and the pricing for its services. The Red Cross cannot fully respond to these assertions because it does not have access to the necessary information. To ensure that any decision is based on a complete record, the Red Cross urges the Commission to use its authority under Section 403 of the Communications Act to obtain the necessary information from 800Ideas.com. To guide the Commission in its inquiry, a list of questions which would allow the Red Cross to respond to 800Ideas.com's contentions are attached as Appendix 2.

V. CONCLUSION

The Communications Act and the Commission's rules give it the right to assign toll-free numbers in a manner that serves the public interest. The aftermath of Hurricanes Katrina and Rita have brought to the forefront the importance of communications issues in responding to national disasters. Reassigning 1-800-RED CROSS enhances the Red Cross's ability to fulfill its mission to provide emergency assistance to those in need. The Red Cross therefore urges the Commission to dismiss the Petition.

Respectfully submitted,

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October 14, 2005

/s/ R. Michael Senkowski
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Service List

I, Robin Walker, hereby certify that on October 14, 2005, I caused a true copy of this American National Red Cross Opposition to Petition for Reconsideration to be served on the following via U.S. first-class mail:

Mr. David Sprouse
800Ideas.com, Inc.
9577 Chesapeake Drive, 2nd Floor
San Diego, CA 92123

/s/ Robin Walker
Robin Walker

Appendix 1

Declaration of Charles D. Connor

My name is Charles D. Connor. and I am currently the Senior Vice President for Communication and Marketing with the American National Red Cross in Washington, D.C. My business address is 2025 E Street, N.W., Washington, DC 20006. I oversee internal, external, and stakeholder communication and marketing, including market research, creative resources, advertising, entertainment outreach, events management, historical resources and media relations. As part of these duties, I am responsible for management of how the organization interfaces with the public, including the means by which the public, donors, and disaster victims communicate with our organization.

I have discussed with various officers at 800Ideas.com on a number of occasions the possibility of it transferring 1-800 RED CROSS to the American Red Cross's headquarters office.

On May 31, 2005, I traveled to California to meet in person with principles of 800Ideas.com, David Sprouse and Rich Jones in the office of their attorney, Scheherazade Sherry Bahrambeygui. I informed the 800Ideas.com participants that other Red Cross representatives were joining by conference call. I then identified and introduced the lawyers for the American Red Cross that were participating in the meeting on the telephone. They were: Mary Elcano, Larry Moore, Julie Ortmeier, and Gregory Vogt.

During this call, I requested that the number 1-800 RED CROSS be transferred by 800Ideas.com to the American Red Cross. I explained that the Red Cross recognized that there might be some expenses that 800Ideas.com had incurred through use of this number and offered that the Red Cross would reimburse a reasonable amount of money to offset these expenses. In addition, the Red Cross offered to provide recognition to 800Ideas.com for their efforts through our existing corporate sponsorship program.

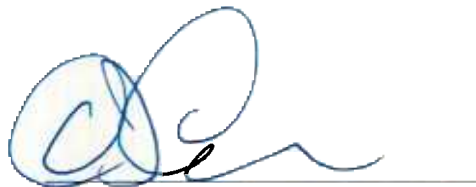
Mr. Sprouse and Mr. Jones did not reject the request outright, but rather responded that reimbursing expenses would not be sufficient compensation to convince them to transfer the number because there were a host of lost opportunity costs, i.e., future revenues, that 800Ideas.com would lose if the number were transferred. 800Ideas.com asked that the American Red Cross consider the matter further and come back with an offer for payment. At the conclusion of the meeting, on the way to the door, I said we were prepared to consider a cost-reimbursement "in the six-figure range." Their attorney scoffed at this as being well below a figure that 800Ideas would even consider. (On a previous occasion, Rich Jones told me that 1-800-FLOWERS had changed hands for \$6 million.)

800Ideas.com did offer to provide routing services to the American Red Cross with the number retained by 800Ideas.com. However, the rate that the American Red Cross's San Diego chapter has been paying for such service is much higher than standard telecommunications rates for toll-free services from most telecommunications service companies.

The Red Cross is currently using 1-800-RED CROSS for access to call centers providing financial assistance to victims of Hurricanes Katrina and Rita. The Red Cross hopes to eventually use this number as the as the single omnibus phone number for all the national organization's needs, including targeted disaster relief coordination and information, fund-raising, blood donation, and volunteering.

I, Charles D. Connor, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and information.

Executed on 14 Oct 05



Appendix 2
Suggested Interrogatories Regarding Issues Raised by 800Ideas.com

1. Identify the customer from which 800Ideas.com had an order for service at the time it applied for and obtained the right to use the number 1-800-733-2767.
2. Produce the contract or order for the customer described in the answer to Request No. 1.
3. If there was no customer from which 800Ideas.com had an order for service at the time it applied for and obtained the right to use the number 1-800-733-2767, identify the first date on which 800Ideas.com provided service to an end-user customer using that number.
4. Identify all end user customers that have ever received calls through the number 1-800-733-2767 and the months during which each such customer received calls using that number.
5. Has any end-user customer subscribed to 800Ideas.com service through the number 1-800-733-2767 for the purpose of advertising the number as S.D. Farms or RED FARMS?
6. Identify each end-user customer that has subscribed to 800Ideas.com service through the number 1-800-733-2767 for purposes of advertising or publicizing the number by spelling any word using the letters associated with each of the numbers in that telephone number.
7. Identify the number of telephone numbers that 800Ideas.com currently has reserved either under its name or as a Responsible Organization.
8. Identify which of the numbers in the response to Request No. 7 were being used to provide a telecommunications or other service to end users during the month of August 2005. Describe the services provided to each such customer.
9. Identify each telephone number that 800Ideas.com had initially reserved in its name, but later transferred during the past 10 years either directly or indirectly to another user for use by that end user to obtain telecommunications service.
10. Identify the amount of value, including but not limited to monetary or in kind property, either directly or indirectly, that 800Ideas.com received from each of the end users identified in response to Request No. 9.
11. Identify any claim or complaint that has been made by any person against 800Ideas.com in any court or other forum, alleging that 800Ideas.com has violated the Federal Communications Commission's rules governing toll-free numbers. Provide all written documentation referencing such claim or complaint.
12. Does 800Ideas.com provide interstate telecommunications services?
13. If the answer to Request No. 12 is yes, provide copies of all of the Forms 499-A 800Ideas.com has filed with the Federal Communications Commission.